

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

LDR Ranch, Ltd.

Keokuk County, Iowa

ADMINISTRATIVE CONSENT ORDER
NO. 2015-AFO- **05**

TO: Dennis Striegel and Leo Striegel, Registered Agents
LDR Ranch, Ltd.
30256 190th Street
Harper, Iowa 52231

Dennis Striegel and Leo Striegel
30622 190th Street
Harper, Iowa 52231

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and LDR Ranch, Ltd. (LDR Ranch) for the purpose of resolving violations resulting from a manure discharge from the LDR Ranch facility to Clear Creek in Keokuk County, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Jon Ryk, Field Office 6
Iowa Department of Natural Resources
1023 West Madison
Washington, Iowa 52353
Phone: 319/653-2135

Relating to legal requirements:

Kelli Book, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Windsor Heights, Iowa 50324
Phone: 515/725-9572

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

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II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1; Iowa Code chapter 459 and the rules adopted or permits issued pursuant thereto; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. LDR Ranch owns an animal feeding operation located at 30256 190th Street, Harper, Iowa (NW ¼ of the NE ¼ of Section 21, Lafayette Township, Keokuk County). The facility is a confinement operation with 1,900 head of wean to finish swine and manure is stored in below building pits.

2. On November 12, 2014, DNR Field Office 6 received a notification from the emergency response pager of a manure discharge at the LDR Ranch facility. Jon Ryk, DNR Field Office 6 environmental specialist, contacted Dennis Striegel, LDR Ranch representative, to obtain more information regarding the discharge. Mr. Striegel explained the discharge was due to a tractor operator not completely shutting down the hydraulics on the pump tractor which resulted in the pit pump being started unintentionally. The manure overflowed the pit and some of the manure was discharged to a tile line inlet located near the southwest corner of the gestation building. Mr. Striegel stated the tile line led to Clear Creek located on the south portion of the property. Mr. Striegel estimated that 1,800 gallons of manure was spilled. He stated the facility dammed up the creek to contain the manure. Mr. Ryk instructed Mr. Striegel to pump the impacted water behind the dam to a truck to be applied to the fields. Mr. Ryk stated he would come out to the facility the following day to further investigate the discharge.

3. On November 13, 2014, Mr. Ryk and Mark Heiderscheit, DNR Field Office 6 environmental specialist, continued the investigation of the discharge. They first stopped at Highway 92 where it crosses Clear Creek, which is approximately 3.4 miles downstream of the release location. The field test from this location indicated an ammonia level of 0 ppm. The field office personnel proceeded to the LDR Ranch facility. They met with Mr. Striegel and he stated Clear Creek had been dammed and 20 loads of manure (12,000 gallons) had been removed from the impacted water from above the dam. Mr. Striegel stated the tile line inlet near the building had been bermed around. Mr. Striegel stated there may have been a breach in the dam area. Mr. Striegel showed the field office personnel the tile line outfall and the dam that was constructed. The field office personnel conducted field tests and collected laboratory samples from the areas listed below. No dead fish were observed at any of the locations sampled.

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Location	Field Test Ammonia	Laboratory Sample CBOD	Laboratory Sample Ammonia	Laboratory Sample E. Coli
300 th Avenue Bridge – Upstream of Tile Line Outfall	0 ppm	<2 mg/L	0.12 mg/L	160 MPN/100mL
Tile Line Outfall	0.3 ppm	<2 mg/L	0.050 mg/L	41 MPN/100mL
Downstream of Tile Line Outfall above the Dam	>3 ppm	4 mg/L	13 mg/L	24,000 MPN/100mL
200 th Street Bridge – Downstream of Tile Line Outfall	1.8 ppm	<2 mg/L	1.0 mg/L	2,900 MPN/100mL
Feeder Stream above the Clear Creek Confluence	0 ppm	<2 mg/L	0.16 mg/L	420 MPN/100mL
Upstream of Feeder Stream Confluence – Downstream of Tile Line Outfall	>3 ppm	11 mg/L	43 mg/L	24,000 MPN/100mL

4. Following the field tests, Mr. Ryk contacted Mr. Striegel and informed him of the field test results. Mr. Ryk explained that based on the field tests that a large amount of manure had made it beyond the first dam. Mr. Striegel stated he was aware of the area that Mr. Ryk was explaining and would construct a second dam downstream of the manure slug. Mr. Ryk contacted Mr. Striegel later in the day and stated there was more pumping that would need to be done. Mr. Striegel stated the original dam had been restored and the second dam had been constructed.

5. On November 14, 2014, Mr. Ryk returned to the area to conduct further investigation and testing. Mr. Ryk conducted a field test at the Highway 92 bridge crossing. The ammonia concentration was 0.3 ppm. Mr. Ryk continued to the second dam location north of 200th Street. The field test indicated an ammonia concentration of >3 ppm. The laboratory sample results indicated an ammonia concentration of 25 ppm, a CBOD concentration of 10 ppm, a TSS concentration of 24 ppm and an E. Coli concentration of 26,000 ppm. Mr. Ryk conducted field tests and collected laboratory samples from the following areas:

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Location	Field Test Ammonia	Laboratory Sample CBOD	Laboratory Sample Ammonia	Laboratory Sample E. Coli	Laboratory Sample TSS
Upstream of Feeder Stream Confluence – Downstream of Tile Line Outfall (just upstream of Dam 2)	>3 ppm	No laboratory sample taken	No laboratory sample taken	No laboratory sample taken	No laboratory sample taken
Dam 2	>3 ppm	10 mg/L	25 mg/L	26,000 MPN/100mL	24 mg/L
Between Confluence and 200 th Street – Downstream of Tile Line Outfall	≈3 ppm	3 mg/L	5.8 mg/L	3,400 MPN/100mL	4 mg/L
200 th Street Bridge – Downstream of Tile Line Outfall	>3 ppm	4 mg/L	12 mg/L	7,3000 MPN/100mL	8 mg/L
0.6 miles South of 200 th Street Bridge – Downstream of Tile Line Outfall	>3 ppm	<2 mg/L	2.4 mg/L	1,600 MPN/100mL	3 mg/L
210 th Street Bridge	0 ppm	No laboratory sample taken	No laboratory sample taken	No laboratory sample taken	No laboratory sample taken
Highway 92 Bridge	0.3 ppm	No laboratory sample taken	No laboratory sample taken	No laboratory sample taken	No laboratory sample taken

6. Mr. Ryk contacted Mr. Striegel to discuss the field test results. Mr. Ryk told Mr. Striegel the ammonia concentrations were high beyond the second dam. Mr. Ryk stated because of the high levels that Mr. Striegel would need to continue to pump manure to bring the ammonia concentrations down. Mr. Ryk provided Mr. Striegel with field test kits and told him to continue to pump the manure until the ammonia concentrations were below 1 ppm. As Mr. Ryk was finishing the investigation for the day he conducted a field test at the 210th Street Bridge and the ammonia concentration was 0 ppm. Mr. Ryk observed live minnows in this area.

7. On November 18, 2014, Mr. Ryk returned to the area to follow up on the manure discharge. He conducted field tests at the following locations:

Location	Field Test Ammonia
210 th Street Bridge – Downstream of Tile Line Outfall	1.1 ppm

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200 th Street Bridge – Downstream of the Tile Line Outfall	0.4 ppm
Dam 2 Location – Downstream of the Tile Line Outfall	0.9 ppm
Highway 92 Bridge	8.3 ppm

8. Mr. Ryk contacted Mr. Striegel and told him the field test results. Mr. Ryk requested copies of the pumping records and the field tests that were conducted by the facility. Mr. Ryk met with Robert Striegel and reviewed the field test results. Mr. Ryk told Mr. Striegel to continue pumping the manure until the ammonia concentrations were below 0.5 ppm.

9. On December 3, 2014, DNR issued a Notice of Violation letter to LDR Ranch for the water quality violations discovered by DNR Field Office 6 during the November investigation. The letter required LDR Ranch to ensure there are no further discharges of manure from the facility to a water of the state and to ensure land application of manure is done in a manner that does not result in a discharge to a water of the state. The letter also stated the matter was being referred for further enforcement.

10. On December 12, 2014, Dennis Striegel came to Field Office 6 to deliver the pumping records and field test results. The documentation was vague on the testing location and only included the number of loads hauled. The documentation did not include which fields where the manure impacted water was applied.

11. LDR Ranch has no history of past violations. LDR Ranch indicated that it would make sure to cover all tile line inlets before hauling and applying any manure in the future.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 459.103 provides that the Environmental Protection Commission (Commission) shall adopt rules related to the construction or operation of animal feeding operations, including permit and minimum manure control requirements. The Commission has adopted such rules at 567 IAC chapter 65.

2. Iowa Code sections 455B.186 and 567 IAC 62.1(1) prohibit the discharge of pollutants into water of the state, except for adequately treated pollutants discharged pursuant to a permit from the DNR. During DNR Field Office 6's investigation in November 2014, it was determined that manure from the LDR Ranch facility was discharged into Clear Creek. The above-mentioned facts indicate violations of these provisions.

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3. 567 IAC 65.2(3) states that the minimum level of manure control for a confinement feeding operation shall be the retention of all manure produced in the confinement enclosures between periods of manure application. In no case shall manure from a confinement feeding operation be discharged directly into a water of the state or into a tile line that discharges to waters of the state. During DNR Field Office 6's investigations in November 2014, it was determined that manure from the LDR Ranch facility had been discharged to a tile line that resulted in a discharge to Clear Creek. The above facts indicate violations of this provision.

4. 567 IAC 61.3(2) provides general water quality criteria and prohibits discharges that will produce objectionable color, odor or other aesthetically objectionable conditions; settle to form sludge deposits; interfere with livestock watering; or are toxic to animal or plant life. The laboratory results indicated elevated levels of ammonia in Clear Creek as a result of the manure discharge from the LDR Ranch facility. The above mentioned facts indicate a violation of the general water quality criteria.

5. Based on the fact LDR Ranch has no previous violations, the DNR has determined that there is no likelihood that the violations identified in Paragraphs 2 - 4, Section IV. Conclusions of Law will recur if LDR Ranch implements the requirements set forth in Paragraphs 1-4, Section V. Order of this administrative consent order.

V. ORDER

THEREFORE, the DNR orders and LDR Ranch agrees to do the following:

1. LDR Ranch shall prevent further discharges of manure from the facility to a water of the state and shall include in the facility's manure management plan that all tile intakes will be covered during manure transfer or application;
2. LDR Ranch shall ensure that all handling, transferring and land application of manure is done in a manner that does not result in a manure discharge to a water of the state;
3. Within 30 days of the date the Director signs this administrative consent order, LDR Ranch shall develop a Standard Operating Procedure detailing how it will protect the tile intakes near the facility and in the fields when transferring and applying manure. The Standard Operating Procedure shall also detail how employees will be trained in proper operation of the equipment to ensure employee errors such as the one that led to this manure discharge do not occur in the future. It shall also include information on how the facility would control and contain any manure release from the facility or its

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operations including a detailed plan on how manure would be contained in the event of a release. The Plan shall also include any and all waters that be impacted. A copy of the Standard Operating Procedure shall be submitted to DNR Field Office 6 within 45 days of the date the Director signs this administrative consent order;

4. LDR Ranch shall review the Standard Operating Procedure with all employees who handle manure on a yearly basis. LDR Ranch shall maintain a record of the employee review of the Standard Operating Procedure; and
5. LDR Ranch shall pay an administrative penalty in the amount of \$4,100.00 within 30 days of the date the Director signs this administrative consent order.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for each of the water quality violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to this chapter, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with an administrative penalty of \$4,100.00. The administrative penalty is determined as follows:

Economic Benefit – 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.2(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.” LDR Ranch gained a minimal economic benefit by failing to properly contain the manure from its facility and delaying the costs associated with proper precautions to avoid the manure discharge. The costs include proper training of employees and the development of Standard Operation Procedures for manure control. Based on the above facts, an economic benefit of \$100.00 is being assessed for this factor.

Gravity – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of

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violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. DNR Field Office 6 documented a manure discharge that impacted Clear Creek. These violations threaten the integrity of the regulatory program because compliance with animal feeding operation requirements is required of all persons in this state. Therefore, \$2,000.00 is assessed for this factor.

Culpability -LDR Ranch has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Therefore, \$2,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of LDR Ranch. For that reason LDR Ranch waives the right to appeal this administrative consent order or any part thereof.

VIII. NONCOMPLIANCE

Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative consent order. Failure to comply with this administrative consent order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

Chuck Gipp
CHUCK GIPP, DIRECTOR
Iowa Department of Natural Resources

Dated this 2nd day of
March, 2015.

Dennis Striegel
LDR RANCH, LTD.
Dennis Striegel
Facility #61679; Kelli Book, DNR Field Office 6, EPA, VIII.D.1.a, VIII.D.3.a

Dated this 18 day of
Feb., 2015.